

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 REDACTED) DOCKET NO. 1-236-881-408
)
)
) Petitioner.)
)
) DECISION
)
 _____)

Redacted (petitioner), protests the Notice of Deficiency Determination (NODD) issued by the staff of the Idaho State Tax Commission (Commission) dated May 12, 2015, asserting additional Idaho income tax and interest in the total amounts of \$1,572, \$2,193, \$778, \$3,397, and \$8,228 for 2007, 2008, 2009, 2010, and 2011, respectively.

Petitioner filed a timely protest. Redacted did not request a hearing and has not provided any additional information for consideration. Therefore, the Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The petitioner did not file Idaho income tax returns for the years referred to above. A letter was sent to petitioner advising Redacted of Redacted missing returns and asking Redacted for an explanation because the Commission could find no record of petitioner's Idaho income tax returns for the periods referred to above. Because the petitioner did not file Idaho income tax returns, the staff of the Commission computed the petitioner's liability from the available information and issued the NODD referred to above.

The petitioner responded, stating that some of the income was from Redacted and that the income reflected by the staff of the Commission did not reflect the Redacted and Redacted. Redacted also asserted that a portion of the income in 2011 was from the Redacted and that the basis had not been reflected in the computation of Idaho taxable income.

The petitioner has had adequate time in which to obtain and submit the necessary documentation to bring about any needed adjustment in the asserted liability. Redacted has

failed to do so. The Commission does not have access to additional information needed to make these adjustments. However, with regard to the Redacted, the Commission may make a reasonable estimate. Where a taxpayer establishes that Redacted incurred a business expense but cannot prove the amount of the expense, a court may approximate the amount allowable, bearing heavily against the taxpayer whose inexactitude is of Redacted own making. Cohan v. Commissioner, 39 F.2d 540, 544 (2d Cir.1930); King v. Commissioner, T.C. Memo.2006-112. For the Cohan rule to apply, however, a reasonable basis must exist on which the Court can make an estimate. Williams v. United States, 245 F.2d 559, 560 (5th Cir.1957); see also Shami v. Commissioner, 741 F.3d at 568-569.

The petitioner acquired his one-half interest in the property here in question on November 10, 2010. Redacted. The Commission finds that the gain attributed to the petitioner should not be one-half of the sales price, but instead should be reduced from Redacted, thereby allowing the petitioner a basis in the property.

THEREFORE, the Notice of Deficiency Determination dated May 12, 2015, is MODIFIED, and AS SO MODIFIED is hereby APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest (computed to March 15, 2016):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2007	\$1,001	\$ 250	\$ 348	\$1,599
2008	1,455	364	413	2,232
2009	522	131	123	776
2010	2,364	591	442	3,397
2011	3,940	985	578	<u>5,503</u>
			TOTAL DUE	<u>\$13,507</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

REDACTED

Receipt No.
